



HURSTON COUNTY
WASHINGTON
SINCE 1852

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PUBLIC HEALTH AND SOCIAL SERVICES DEPARTMENT

MEMORANDUM

Sherri McDonald, RN, MPA,
Director
Diana T. Yu, MD, MSPH
Health Officer

TO: On-Site Sewage System Designers and Professional Engineers

FROM: Steven W. Petersen, R.S., Program Manager *SB Petersen*

DATE: March 26, 2007

Recently, a Court Of Appeals decision was issued in a case that concerns Thurston County Sanitary Code, Article IV Section 21.4.5.3.

That section states that the health officer may permit the installation of an On-Site Sewage System on a lot that fails to meet the minimum land area or lot size requirements in Article IV **when**: "The proposed system meets all requirements of these regulations other than minimum land area." The court ruled the "meets all requirements" provision governing the health officer's authority to issue an OSS permit to undersized lots **excludes** waivers and setbacks.

Our agency is obligated to abide by the decision of the Court of Appeals unless this decision is overturned. This means applications reviewed under Section 21.4.5 cannot be approved for lots that fail to meet the minimum land area in Table VII unless an acceptable proposal can be developed without the use of waivers or setback reductions. This applies to applications that are currently under review.

You can view the Court of Appeals decision at
<http://www.courts.wa.gov/opinions/?fa=opinions.disp&filename=344181MAJ>

If the Court of Appeals decision is revised or reversed on appeal so as to modify the limitations on issuing permits for undersized lots, our agency will keep you apprised of any changes in our review policy.

If you have questions concerning this matter, please feel free to call on me at (360) 754-3355, ext 3348.

